HANDBOOK OF

CONNECTICUT

APPELLATE PROCEDURE

PREFACE

This is only a handbook. Although it contains much information on appellate procedure and tips for both the novice and the seasoned appellate practitioner, it is not intended to be a comprehensive treatise or a substitute for the official Connecticut Practice Book. The material in this handbook should be supplemented by your own careful study of the rules of appellate practice, as well as case law and statutes. The rules change frequently and therefore you should make sure you are consulting the most recent version of the rules.

This handbook does not address rules specifically applicable to habeas corpus cases, land use cases, workers' compensation cases, court closure and sealing cases, juvenile matters, and child protection matters. Please consult Chapters 76 through 81 of the Practice Book.

This handbook is based on the rules pertaining to appeals filed on or after July 1, 2013.

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INTRODUCTION

The Role of the Office of the Appellate Clerk

The office of the appellate clerk processes all paperwork that comes into the Supreme Court and the Appellate Court. The office is staffed by attorneys and paralegals who monitor appeals for compliance with the rules, following appeals from initial filing to final disposition.

The office of the appellate clerk acts as the liaison between the public, the trial courts, the bar and self-represented parties, and the Supreme Court justices and the Appellate Court judges, their law clerks, and court staff**.** While every effort is made to serve as a resource for the bar and the public with respect to legal information, the office of the appellate clerk does not give legal advice.

Each appeal is assigned to a clerk who is the case manager responsible for that case from beginning to end. Supreme Court cases are assigned to case managers based on the last number of the appeal docket number. Appellate Court cases are assigned to case managers based on the last two numbers of the appeal docket number. Case managers review all papers that are filed in their assigned appeals. After an appeal is filed, it is reviewed by a case manager from both a procedural and a jurisdictional perspective. If any of the preliminary papers required by Practice Book (P.B.) § 63-4 are missing, nisi orders, which are orders that an appeal will be dismissed unless a particular document or paper required by the rules is filed, may be issued in certain cases; orders to show cause may be issued in other cases. Cases in which jurisdiction is questionable are referred to the staff attorney's office for further review and for possible scheduling on the court's motion calendar. The case managers process motions, which include acting on certain motions under guidelines established by the courts as well as issuing orders on all motions.

Questions should be directed to the case manager assigned to a particular appeal.

The office of the appellate clerk handles appeals originating at every trial court location throughout the state. Every effort is made to assist parties appearing before either court as promptly as possible.

READ THE RULES!
WHEN IN DOUBT, PLEASE CALL YOUR CASE MANAGER
OR THE OFFICE OF THE APPELLATE CLERK
(860) 757-2200
231 CAPITOL AVENUE
HARTFORD, CT 06106

SECTION 1

WHEN AND WHAT TO APPEAL

Parties who fail to take a timely appeal from an appealable judgment or order can lose their right to appellate review of that ruling. Again, this is only a handbook, and in determining what to appeal—and when to appeal it—there is no substitute for careful study of the rules of appellate procedure, case law and the statutes.

What is Appealable?

The first step in the appeal process is knowing what decisions can be appealed to either the Appellate Court or the Supreme Court. With one exception, only decisions of the Superior Court can be appealed. The exception is in workers' compensation cases, where appeals bypass the Superior Court and go directly to the Appellate Court. See Connecticut General Statutes (C.G.S.) § 31-301b; P.B. § 76-1. Other administrative decisions, as well as Probate Court decisions, must first be appealed to the Superior Court.

In deciding whether a Superior Court decision is appealable, you should consider the following questions:

1. **Are you a party in the Superior Court?** If the answer is "no," you generally cannot appeal. Instead, you should consider whether a writ of error would be appropriate. See P.B. § 72-1.

2. **Is the decision final?** If the answer is "no," you generally cannot appeal or file a writ of error. In certain instances, interlocutory orders have been deemed final for purposes of appeal. It is beyond the scope of this handbook to explain when a decision is final. As a starting point, however, see the seminal case in this area, *State* v. *Curcio*, 191 Conn. 27 (1983). In addition, you may appeal pursuant to statute from certain nonfinal orders. These orders include, but are not limited to:

    a. decisions concerning mechanic's liens, prejudgment remedies and lis pendens; C.G.S. §§ 49-35c, 52-278*l* and 52-325c;
    b. temporary injunctions involving labor disputes; C.G.S. § 31-118;
    c. orders or decisions certified by the Chief Justice as being of substantial public interest and in which delay may work a substantial injustice; C.G.S. § 52-265a;
    d. orders concerning court closure and sealing or limiting disclosure of court documents, affidavits or files; C.G.S. § 51-164x;
    e. decisions of the Workers' Compensation Review Board; C.G.S. § 31-301b;
    f. certain partial judgments; P.B. §§ 61-2 through 61-5; and
    g. decisions remanding for further proceedings under the Uniform Administrative Procedure Act. C.G.S. § 4-183 (j).

3. **Are you aggrieved (legally harmed) by the decision?** If the answer is "no," you generally cannot appeal.

4. **Is the subject matter of the decision appealable?** In general, the answer is "yes." The following are exceptions:

    a. Small claims decisions are not appealable; C.G.S. § 51-197a; although denial of a timely motion to transfer a small claims case to the regular docket can be reviewed by a writ of error after a final judgment has been rendered under P.B. § 72-1;
    b. Criminal contempt decisions and decisions of the sentence review division are not appealable; you may file a writ of error instead. See P.B. § 72-1.

5. **Do you need permission to appeal?** In general, the answer is "no." There are, however, statutes and rules that require parties to obtain permission to appeal. Rulings that require permission include:

    a. Superior Court decisions on appeals from local zoning and inland wetlands agencies, which require the filing and granting of a petition for certification by the Appellate Court; C.G.S. §§ 8-8 (o), 8-9, 8-30a and 22a-43 (e)**;** see P.B. § 81-1.
    b. Habeas corpus decisions concerning prisoners, which are appealable by either side only with the permission of the judge who tried the case; C.G.S. § 52-470 (g)**;** see P.B. § 80-1.
    c. Denials of petitions for new trials in criminal cases, which are appealable upon the granting of certification by the trial court; C.G.S. § 54-95.
    d. Rulings disposing of at least one cause of action while not disposing of either (1) an entire complaint, counterclaim or cross complaint or (2) all causes of action brought by or against a party, which are appealable only if the trial court makes a written determination that an immediate appeal is justified and the Chief Justice or Chief Judge concurs; see P.B. § 61-4.

    In addition, C. G. S. § 54-96 requires that the state obtain the permission of the trial court to appeal rulings or decisions in criminal cases. If permission or certification to appeal from the rulings listed in paragraphs (b) or (c) above is denied, or if the state is denied permission to appeal, an appeal may still be filed with the denial of permission raised as the first issue on appeal.

To What Court Do You Appeal?

Most appeals go to the Appellate Court. Those appeals that are filed directly in the Supreme Court are listed in C.G.S. § 51-199 (b). If the appeal is filed in the wrong court, it will be transferred to the correct court. P.B. § 65-4. The Supreme Court may

also transfer a case rightly filed in the Appellate Court to itself or transfer a case rightly filed in the Supreme Court to the Appellate Court. C.G.S. § 51-199 (c); P.B. § 65-1.

How Long Do You Have to Appeal?

Generally, you have 20 days from the date notice of the judgment or decision is issued by the judge or clerk to appeal. P.B. § 63-1 (a). The time to appeal does not begin when the lawyer or litigant receives the notice. For writs of error, see P.B. § 72-3 (a). In a criminal case, whether jury or nonjury, the imposition of sentence, not the verdict, constitutes the judgment. In a civil jury case, the verdict constitutes the judgment if no timely motion under P.B. §§ 16-35, 16-37 or 17-2A is filed; otherwise, the last ruling on any such motion or motions constitutes the judgment. In a civil nonjury case and in a civil jury case where one or more motions pursuant to P.B. §§ 16-35, 16-37 or 17-2A are filed, the judgment may be pronounced orally by the judge in open court, or it may be contained in a written memorandum of decision signed by the judge and sent to all parties of record by the clerk's office.

Where a party in a civil case is only one of several plaintiffs or defendants and a final judgment is rendered that takes that party out of the case, special rules apply concerning when to appeal. See P.B. § 61-5. Any aggrieved party may either file an appeal or file a notice of intent to appeal pursuant to P.B. § 61-5 to preserve the right to appeal. P.B. § 61-3. The notice of intent to appeal defers the taking of an appeal until a final judgment disposes of the case for all purposes and as to all parties**,** unless a timely objection to the deferring of the appeal is filed as provided by P.B. § 61-5. If a timely objection is filed, an appeal must be filed within 20 days of the filing of the objection.

Generally, a party should appeal within 20 days from the time judgment is rendered on an entire complaint, counterclaim or cross complaint, even if an undisposed complaint, counterclaim or cross complaint remains in the case. See P.B. § 61-2.

The trial judge can grant a timely extension of time to appeal of up to 20 days, unless a shorter period has been prescribed by rule or by statute. If a motion for extension of time to file an appeal is filed at least 10 days before expiration of the time limit sought to be extended, you will have no less than 10 days from the issuance of notice of the denial of the motion to file an appeal. P.B. § 66-1 (a). If your motion is filed outside of the initial 10 day period, and it is denied by the trial court, you run a risk that your appeal may be deemed untimely. In addition, certain motions filed within the appeal period create a new appeal period that starts to run once the motions are ruled on by the trial court. See P.B. § 63-1 (c). Check the statutes and the case law carefully before asking the trial judge to extend the time to appeal or before relying on the granting of one of the motions listed in P.B. § 63-1 to give rise to a new appeal period.

Some statutes provide for shorter periods within which to appeal or seek permission to appeal. These time periods include:

1. **72 hour period** to seek review of orders prohibiting attendance at court sessions and orders sealing or limiting access to documents on file with the court under C.G.S. § 51-164x (see P.B. § 77-1);

2. **5 day period** to appeal summary process judgments (Sundays and legal holidays excepted) under C.G.S. § 47a-35;

3. **7 day period** to appeal orders concerning lis pendens, mechanic's liens and prejudgment remedies under C.G.S. §§ 49-35c, 52-278*l* and 52-325c;

4. **10 day period** to seek certification to appeal habeas corpus decisions under C.G.S. § 52-470 (g);

5. **14 day period** to seek permission from the Chief Justice to appeal, pursuant to C.G.S. § 52-265a (see P.B. § 83-1), from orders that involve matters of substantial public interest;

6. **14 day period** to appeal orders regarding temporary injunctions in labor disputes under C.G.S. § 31-118.

What Is the Status of the Judgment Pending Appeal?

The judgment in most cases is automatically stayed; that is, it cannot be enforced until the time to take an appeal has expired. If an appeal is filed, the stay ordinarily will continue until the case has been resolved. See P.B. §§ 61-11 (a) and 61-13. The judgment, however, in certain types of cases is not automatically stayed. See P.B. §§ 61-11 (b) and 61-13 (a) (2). Some orders in family cases, such as those concerning alimony and child support, and orders in juvenile cases are not automatically stayed. P.B. § 61-11 (b) and (c). Separate rules govern stays in foreclosure cases. P.B. § 61-11 (g) and (h).

If there is an automatic stay, a party can ask the trial judge to terminate the stay. P.B. §§ 61-11 (c) and (d), and 61-13 (d). If there is no automatic stay, a party can ask the trial judge to order a stay. P.B. §§ 61-12 and 61-13 (d). A party may seek review of a trial court order concerning a stay of execution under P.B. § 61-14.

SECTION 2

THE MECHANICS OF FILING AN APPEAL AND CROSS APPEAL

Distinction between Appeals and Cross Appeals

An appeal may only be brought by a party who is legally harmed or "aggrieved" by the decision of the trial court. P.B. § 61-1. The party who files the appeal is called the appellant and all other parties who have not joined in the appeal are called appellees. In some instances, within 10 days of the filing of the appeal by the appellant, an appellee who is also legally harmed by the trial court's decision may also wish to challenge the decision by filing a "cross appeal." The procedure for filing a cross appeal is the same as for the filing of an appeal, except where noted below. P.B. § 61-8.

Appeal Form

An appeal may be e-filed in any case in which e-filing is permitted in the trial court. P.B. § 63-3A. In cases that are not e-filed, an appeal is brought by filing a form entitled "Appeal" with the clerk of the original trial court, a court to which the matter was transferred, or any judicial district. P.B. § 63-3. There is a separate form for civil and criminal cases. Each form is available on the Judicial Branch website (www.jud.ct.gov) or at any clerk's office.

The appeal form should be filled out carefully. In particular, it is important to be sure that all the individual parties who are filing the appeal are listed on the appeal form, as well as the correct trial court docket number(s). The appeal form must be accompanied by a certification that the appeal has been served on all counsel of record and self-represented parties. The clerk of the trial court will endorse on the appeal form the date and time of filing and the receipt or waiver of the filing fees. The clerk will then return one copy of the endorsed form to you along with a copy of the docket sheet in civil appeals. Where you have filed the appeal in a court other than that in which the case was pending, you must file the endorsed form in the original trial court. You must promptly file the copy of the endorsed appeal form and the docket sheet in the office of the appellate clerk in Hartford with the other papers discussed below.

In cases in which the appeal is e-filed, a copy of the confirmation of e-filing must be attached to the original appeal form to create the endorsed appeal form.

Fees

At the time the appeal is filed, you must pay a fee to the clerk of the trial court. The fee may be paid by a check payable to the clerk of the Superior Court. Fees in e-filed cases shall be paid at the time of e-filing as specified by E-Services. No fee is required for a cross appeal. An indigent party in a civil case may apply for a waiver of the appellate fees and an order that necessary expenses of bringing the appeal be paid by the state. P.B. § 63-6 (civil). The application must be filed within the deadline for taking the appeal. The timely filing of an application for a fee waiver postpones the appeal period until the application is granted or denied. P.B. § 63-1 (c). An indigent

party in a criminal case may, within the time provided in the rules for taking an appeal, apply for a waiver of the appellate fees, costs and expenses and for the appointment of appellate counsel. P.B. § 63-7 (criminal). An application is not necessary, however, if the criminal party has already been determined to be indigent.

Other Documents

When you file the endorsed copy of the appeal form with the appellate clerk, pursuant to P.B. § 63-4, you must also file an original of each of the following papers with a certification that you have sent them to all counsel and self-represented parties of record pursuant to P.B. § 62-7:

1. **A preliminary statement of the issues** that you intend to raise on appeal;

2. Either a copy of the **transcript order form** (JD-ES-38) properly completed by the court reporter with an estimated delivery date or a certificate stating that no transcript is necessary or listing the specific date(s) of transcripts already delivered. You should also order an electronic version of the portions of the transcript deemed necessary for presentation of the appeal. P.B. § 63-8 (a);

3. **A docketing statement,** which includes a list of the parties' names and addresses, the names and addresses of all counsel of record, the case name and docket number of any cases that raise the same or similar issues, whether there were exhibits in the trial court, and, in criminal cases, whether the defendant is incarcerated;

4. In most noncriminal cases, **a preargument conference statement**. See P.B. § 63-10;

5. **A draft judgment file.** A draft judgment file is not required in criminal cases, habeas corpus appeals, prejudgment and postjudgment orders in divorce proceedings, prejudgment remedy appeals, and foreclosure actions. The form of this document is described in P.B. § 6-2 et seq. The Superior Court clerk can provide you with assistance in preparing this document;

6. **A constitutionality notice.** This document is required in any civil case in which you are challenging the constitutionality of a state statute. The document should state: (a) the statute being challenged, (b) the name and address of the party bringing the challenge, and (c) whether the trial court upheld the constitutionality of the statute;

7. **A copy of the sealing order form** (JD-CL-76). This document, showing the date, time, scope and duration of the sealing order, is required in cases where there is protected information, documents are under seal, or disclosure has been limited.

The appellee has 20 days to respond to these papers pursuant to P.B. § 63-4.

Amendments to any of these documents, except the certificate regarding

transcript, may be made without the court's permission until that party's brief is filed.

After you have filed the appeal, you will receive a letter from the office of the appellate clerk providing you with the appellate docket number and assigning you a case manager to whom you can address questions.

SECTION 3

THE RECORD ON APPEAL

It is the appellant's responsibility (or in the case of a cross appeal, the cross appellant's responsibility) to ensure that the record is adequate to permit appellate review of the appellant's claims on appeal. P.B. § 61-10. The record includes the case file, any decisions, documents, transcripts, recordings and exhibits from the proceedings below, and, in appeals from administrative agencies, the record returned to the trial court by the administrative agency. See P.B. § 60-4. The appellant **must** take this responsibility seriously. The failure to provide an adequate record for review could result in the court's declining to review an issue or claim on appeal. Perfecting the record for appeal involves a number of activities both before and after filing the appeal:

1. **Transcript.** On or before filing the appeal, the appellant must order (using Form JD-ES-38), and make satisfactory arrangements for payment of, a transcript of the parts of the proceedings not already transcribed that are necessary for proper presentation and review of the appeal. See P.B. §§ 63-8, 63-8A, and 63-4 (2). The appellant is required to order both the traditional paper copy of the transcript as well as an electronic version. Upon receipt of the certificate of completion from the official reporter, counsel or self-represented parties who ordered the transcript must file a certification that a copy of the certificate of completion has been sent to all counsel and self-represented parties in accordance with P.B. § 62-7. P.B. § 63-8. Also, before or at the time of the filing of the appellant's brief, the appellant must file with the office of the appellate clerk one unmarked, nonreturnable copy of the paper version of the transcript, including the reporter's certification page. P.B. § 63-8. The reporter files an electronic version of the transcript with the office of the appellate clerk and with the ordering party. P.B. § 63-8A. Failure to file a transcript could preclude review of any claim dependent on the transcript. The transcript is not served on other parties, who must either review the transcript on file with the office of the appellate clerk or order their own copies from the court reporter. In a criminal case, the court reporter will provide the state with a copy of all transcripts ordered and received by the defendant-appellant if the appeal is being handled by a private attorney or the defendant is self-represented. If the criminal appeal is being handled by a special public defender, the defendant, through counsel, must provide the state with a copy of all transcripts ordered and received.

2. **Motion for Rectification.** The appellant should seek to correct any errors or omissions in the trial record by filing a motion for rectification. P.B. § 66-5; see P.B. § 66-2. For example, a motion for rectification should be used to seek to correct an error in the trial transcript or to include a document omitted from the trial court record. Unless the filing period is extended for good cause shown, a motion for rectification must be filed within 35 days after: (a) delivery of the last portion of the transcripts; (b) if no transcripts were ordered, the filing of the appeal; or (c) if no memorandum of decision was filed before the appeal was filed, the filing of the memorandum of decision. If the court, *sua sponte*, sets a different deadline for filing the appellant's brief, such as an extension pending assignment for a preargument

conference, a motion for rectification must be filed within 10 days before the deadline for filing the appellant's brief. P.B. § 66-5. Except for good cause shown, no motion for rectification can be filed after the appellant's brief is filed. The filing of a motion for rectification does **not** toll the time for filing the appellant's brief, so a motion for extension of time may be necessary. See P.B. § 66-1. The office of the appellate clerk will forward the motion for rectification to the trial judge who decided, or presided over, the subject matter of the rectification. The trial judge will file the decision on the motion with the office of the appellate clerk. The trial court may hold a hearing to receive evidence, approve a stipulation of counsel or hear arguments regarding a requested correction. Any party aggrieved by a trial court's ruling on a motion for rectification may file a motion for review under P.B. § 66-7, which is discussed below.

3. **Memorandum of Decision or Transcript of Oral Decision.** It is also the appellant's responsibility to ensure either (a) that the trial court files a written memorandum of decision or (b) if the trial court's decision was oral, that a transcript of the portion of the proceedings in which the court stated its oral decision is signed by the trial judge and filed in the trial court clerk's office. See P.B. § 64-1. Filing a transcript of a decision that is not signed by the trial judge may not be sufficient to permit appellate review. If the trial judge fails to file a memorandum of decision or to sign a transcript of an oral decision, the appellant should file with the office of the appellate clerk under P.B. § 64-1 (b) a notice that the decision has not been filed, specifying the trial judge involved and the date of the ruling in question. The appellate clerk will forward the notice to the trial judge. If the judge does not respond in a reasonable time, the appellant may also seek an order under P.B. § 60-2 (1) directing the trial court to file its decision or sign the transcript.

4. **Motion for Articulation.** Whenever the trial court's decision fails to address an issue that was raised in the trial court and will be raised on appeal, or is unclear or incomplete in setting forth the factual or legal basis of its decision, it is the appellant's responsibility to file a motion for articulation under P.B. § 66-5. The motion for articulation (which seeks further explanation regarding the basis for an existing decision) should not be confused with the notice, discussed above, that is filed pursuant to P.B. § 64-1 (b) when the trial court has failed to file any memorandum of decision or to sign a transcript of the court's ruling. The time periods for filing a motion for articulation are the same as those governing motions for rectification. Filing a motion for articulation does **not** toll the deadline for filing the appellant's brief, so that a motion for extension of time to file a brief may be necessary. See P.B. § 66-1. The office of the appellate clerk will forward the motion for articulation to the trial judge. Within 20 days of a judge's articulation, any party may move for further articulation. P.B. § 66-5.

5. **Motion for Review.** If any party is aggrieved by the action of the trial judge on a motion for articulation or rectification, that party should seek appellate review of that decision by filing with the office of the appellate clerk a motion for review under P.B. § 66-7 within 10 days of notice of the trial judge's action. See P.B. § 66-6. Failure to file a motion for review may result in an appellate court's declining to review an

issue or claim on appeal, even if a motion for articulation or rectification was filed. If the motion was not granted or the trial court's ruling is incomplete in any way, a prudent party will file a motion for review, attaching any relevant pleadings, transcripts or other court papers. If the motion for review depends upon a transcript, either a paper version of the transcript with an electronic version or a copy of the transcript order form if the transcript has not yet been delivered, should be filed with the motion. Failure to file the transcript when the motion for review depends on transcript could result in the dismissal of your motion.

6. **Filing Local Land Use Regulations.** In appeals certified by the Appellate Court pursuant to P.B. § 81-1 et seq., one complete copy of the local land use regulations in effect at the time of the hearing that gave rise to the agency action or ruling in dispute must be filed with the office of the appellate clerk when the appellant's brief is filed. The copy filed must be certified by the local zoning official as having been in effect at the time of the hearing. See P.B. § 81-6.

SECTION 4

PREARGUMENT CONFERENCES (PAC)

Preargument conferences are held pursuant to P.B. § 63-10 and are convened primarily to explore settlement before the parties are compelled to prepare and file their appellate briefs because the briefs represent a significant portion of the cost incurred by the parties on appeal. The judge assigned to conduct the PAC mediation will point out to the attendees, parties and attorneys, in joint conference and in ex parte discussions, the strengths and weaknesses of each side. This mediation process has succeeded in resolving many of the cases eligible for the program. If the case does not settle, the judge may explore other ways to shorten the appellate process, such as issue reduction, waiver of oral argument and/or a recommendation for transfer to the Supreme Court, if appropriate.

A preargument conference statement must be filed along with the appeal form in all noncriminal cases. The preargument conference statement must be accompanied by a copy of the trial court's written memorandum of decision, if there was one, or a transcript of the trial court's oral decision, if a transcript is available. In addition, the issues that the appellant plans to raise on appeal must be appended to the statement.

All civil cases are eligible for a preargument conference except habeas corpus appeals, driving while intoxicated appeals and appeals involving juveniles, such as delinquency and termination of parental rights cases. A party in an exempt case may request a preargument conference by writing a letter to the appellate clerk, certified to all parties, explaining why the case should not be exempt.

Any questions or requests regarding the preargument conference should be addressed to the judge to whom the case has been assigned.

Clients are required to attend preargument conferences unless excused. In the event that a party against whom a claim is made is insured, the insurer must be available by phone, although the preargument conference judge may require the adjuster to be present at the conference. If a party or an attorney fails to attend a conference, sanctions may be imposed under P.B. § 85-2 (7).

If a case does not settle, nothing discussed at the preargument conference will be transmitted to the Supreme Court or the Appellate Court.

SECTION 5

MOTION PRACTICE

All motions must comply with the requirements of P.B. §§ 66-2 and 66-3. Thus, motions must be:

- typewritten and fully double-spaced
- 12 point or larger size in arial or univers typeface
- no more than 3 lines to the vertical inch or 27 lines to the page

Unless otherwise provided, the original and 15 copies of motions, petitions, applications, memoranda of law, oppositions and stipulations are required.

Certification of service is always required, including names, addresses, and telephone and fax numbers of all counsel or self-represented parties served. P.B. § 62-7. Inclusion of juris numbers of counsel served and current e-mail addresses are not required but providing this information is helpful to the office of the appellate clerk. Additionally, a certification of compliance with P.B. § 66-3 must be attached to all signed original documents.

In accordance with P.B. § 66-2, every motion, including motions for extension of time, **must** contain in separate, appropriately captioned paragraphs:

- a brief history of the case
- specific facts relied upon
- legal grounds relied upon

There is a 10 page maximum for all motions or oppositions, including any memoranda in support of or in opposition to a motion. P.B. § 66-2 (b). Requests to exceed the page limit set forth in P.B. § 66-2 (b) may be made to the appellate clerk, although such requests are discouraged. Whenever a motion is filed in the office of the appellate clerk, it is initially examined for compliance with P.B. §§ 66-2 and 66-3. Noncomplying motions are returned. P.B. § 62-7. The office of the appellate clerk retains a date-stamped copy of the returned document. Any papers correcting a noncomplying filing should be resubmitted to the appellate clerk within 15 days. P.B. § 62-7. The response time will not start to run until the correcting paper is filed.

Some motions may lead to the disposition of an appeal or writ of error. Generally, the appellee must file a motion to dismiss based on a nonjurisdictional defect within 10 days after the filing of the appeal or after the alleged defect arose. A motion to dismiss based on lack of jurisdiction, however, may be filed at any time. P.B. § 66-8. Examples of jurisdictional problems that can result in dismissal of an appeal include lack of standing, mootness, and lack of a final judgment. Examples of nonjurisdictional problems that can result in the dismissal of an appeal include failure to timely file required documents and the presentation of frivolous issues on appeal.

A party may file a motion for sanctions pursuant to P.B. § 85-1 for lack of diligence in prosecuting or defending the appeal.

A motion for review pursuant to P.B. § 66-6 allows the Appellate Court or the Supreme Court to review actions of the trial court during the pendency of the appeal involving questions that may arise in connection with the preparation of the appeal. A motion for review is appropriate where a party seeks to modify or vacate any order of the trial court relating to the perfecting of the record for appeal or the procedure for prosecuting or defending the appeal. A motion for review is also appropriate to seek review of action of the appellate clerk or the trial court on a motion to extend time. P.B. § 66-1. In addition, a party may move for review of an adverse ruling on either a motion for stay of execution or a motion to terminate an automatic stay. See P.B. §§ 61-11, 61-12 and 66-6. A party has 10 days from the date of issuance of notice of any order to file a motion for review. P.B. § 66-6.

Pursuant to P.B. § 60-2, any order made by the trial court in relation to the prosecution of an appeal may be modified or vacated. There are 9 subparts to this rule that give, by way of example, grounds to file a motion for a supervisory order. For instance, pursuant to P.B. § 60-2 (4), a party may move an appellate court for a stay of ancillary proceedings in a case on appeal pursuant to that court's supervision and control of the proceedings on appeal.

Aside from motions to extend time, there are very few motions directed to briefing. A party may move to strike improper matters from a brief or any appendix pursuant to P.B. § 60-2 (3).

An opposition can be filed to any motion within 10 days of the filing of the motion except for motions for extension of time where the time limit for filing an opposition is 5 days. P.B. § 66-2 (a). Responses to oppositions are not permitted and will be returned.

Some motions that are directed to the trial court, such as a motion to terminate stay pursuant to P.B. § 61-11 or motions for rectification or articulation pursuant to P.B. § 66-5, are filed with the appellate clerk. These trial court motions must comply with the requirements of P.B. § 66-2 (e). Such motions will be forwarded to the trial court by the appellate clerk.

SECTION 6

MOTIONS FOR EXTENSION OF TIME

Motions for extension of time to file a brief or other document are governed by P.B. § 66-1. Like all other motions, they must comply with P.B. §§ 66-2 and 66-3. Pursuant to P.B. § 66-1, motions for extension of time must also include:

- the reason for the requested extension
- certification to counsel, self-represented parties, **and** the movant's client
- a statement indicating whether other parties consent or object
- the current status of the brief
- the estimated date of completion of the brief
- whether the client is incarcerated (criminal cases only)
- a claim of **good cause.** P.B. § 66-1 (c).

Only an original of the motion is required to be filed. No copies are necessary. P.B. § 66-1 (c) (1). The rules allow only 5 days to file an objection to a motion for extension of time. P.B. § 66-1 (c) (3). Please refer to the Judicial Branch website for technical standards and procedures for e-mailing motions for extension of time and oppositions thereto in both the Supreme Court and the Appellate Court pursuant to P.B. § 66-1 (c) (6).

The Good Cause Requirement

Good cause must be shown for a motion for extension to be granted. Generally speaking, the case managers in the office of the appellate clerk act on motions for extension under the general guidelines established by the courts. If the reason for the requested extension is that counsel is working on other appeals, be specific, listing the dates when briefs are due in other cases. Whether your reason relates to the inherent nature of the appeal, such as lengthy transcript, complex issues or pending settlement negotiations, or relates to personal matters, such as family or personal illness, confirmed vacation plans or caseload conflicts, be forthright. If you are not sure if the reasons are adequate, call the office of the appellate clerk. Other pending motions, unrelated to the filing of a brief, do not toll the time to file the brief, although such other pending motions may furnish a reason for granting an extension of time to file the brief.

When to File

A motion for extension of time must be filed no later than 10 days **before** the brief or document is due, unless the reason for the request for an extension arose during that 10 day period. The case managers will act on the motion as long as it is filed by the due date of the brief or other document. If the motion for extension is filed **after** the due date, the clerk is required to deny the motion. P.B. § 66-1 (4). If the due date has passed or a motion for extension has been denied, a motion for permission to file late may be filed. See P.B. §§ 60-1, 60-2 (6) and 60-3. Extensions cannot be

granted over the telephone, but it is recommended that the case manager be called in this situation as soon as possible in order to avoid having the case placed on the court's P.B. § 85-1 delinquency calendar or having a nisi order issued.

How Long an Extension to Expect

Generally, the office of the appellate clerk is authorized to grant extensions averaging 21 to 30 days. Special circumstances requiring more time are addressed on a case-by-case basis. Sometimes, though, the granting of an extension will be contingent upon action taken on another motion. For example, an extension might be granted to 21 days after issuance of notice of a decision on a pending motion.

If there is an outstanding nisi order or a final extension order for the filing of a brief and the applicable due date has passed, a motion to suspend the rules is required. P.B. §§ 60-1, 60-2 and 60-3. Without such a motion, the office of the appellate clerk cannot accept a late brief or other document.

Review of Order

Review of a case manager's order on a motion for extension of time may be obtained by motion for review. See P.B. §§ 66-1 (c) (5) and 66-6.

Extensions of Time in Which to File an Appeal

Pursuant to P.B. § 66-1, a motion for extension of time to file an appeal must be filed in the trial court where the case was heard. A motion for extension of time to file an appeal should be filed at least 10 days before expiration of the time limit sought to be extended so that if the motion is denied, the party seeking to appeal will have no less than 10 days from the issuance of notice of the denial to appeal. The trial judge may not extend the time by more than 20 additional days beyond the appropriate appeal period. See P.B. §§ 66-1 (a) and 63-1 (a). If the trial judge declines to grant the motion for extension of time to appeal, a motion for permission to file a late appeal may be filed in the Supreme Court or the Appellate Court.

SECTION 7

BRIEFS AND APPENDICES

The timing, format, and content of briefs and appendices are governed by Chapter 67 of the Practice Book. Briefs and appendices that do not substantially comply with the rules may be rejected by the office of the appellate clerk. P.B. § 62-7. Moreover, the court may refuse to review issues that are not properly briefed. Note that different rules apply to the filing of briefs and appendices in child protection matters. See P.B. §§ 79a-1 through 79a-15.

Timing

1. **The Appellant's Brief.** The brief and appendix of the appellant must be filed within 45 days of the delivery date of any transcript ordered by the appellant. P.B. §§ 67-3 and 63-8 (c). The "delivery date" of the transcript is the date on which the final portion of the transcript ordered by the appellant is sent to the appellant by the court reporter. See P.B. § 63-8 (c). If the appellant has not ordered any transcript or, if the transcript on which the appellant intends to rely was obtained prior to the filing of the appeal, the appellant's brief and appendix must be filed within 45 days of the date on which the appeal form was filed in the trial court. P.B. § 67-3.

2. **The Appellee's Brief.** The brief of the appellee and any appendix must be filed within 30 days after the filing of the appellant's brief. P.B. § 67-3. If the appellee has ordered any transcript in addition to that ordered by the appellant; see P.B. § 63-4 (a) (2); the appellee's brief and any appendix must be filed within 30 days after the delivery date of the transcript ordered by the appellee. P.B. § 67-3.

3. **The Reply Brief.** The reply brief, if any, must be filed within 20 days after the filing of the brief of the appellee. P.B. § 67-3. It must respond only to the appellee's argument and may not raise new issues.

4. **Cross Appeals.** Where a cross appeal has been filed, the brief and appendix of the appellee is combined with its brief as cross appellant and is filed within the time provided for the filing of the appellee's brief. The reply brief, if any, of the appellant is combined with its brief as cross appellee and must be filed within 30 days after the filing of the brief of the appellee/cross appellant. The reply brief, if any, of the cross appellant must be filed within 20 days after the filing of the brief of the cross appellee. P.B. § 67-3.

Format

The Practice Book contains precise requirements concerning margins, spacing, fonts, page numbers, binding and covers. P.B. § 67-2. Strict compliance with these requirements is essential.

Supreme Court cases require an original and 15 copies of the brief and appendix to be filed. Appellate Court cases require an original and 10 copies. Unless ordered otherwise, the brief shall be copied on one side of the page only. Appendices may be copied on both sides of the page.

The page limitations for briefs may be found in P.B. § 67-3. For purposes of the page limitations, you must count everything other than the: (1) appendices; (2) statement of issues; (3) table of contents; (4) table of authorities; (5) statement of interest in an amicus curiae brief; and (6) last page of the brief, but **only** if it contains nothing more than the signature of counsel or the signature of the self-represented party. Either the Chief Justice or the Chief Judge may grant permission to exceed the page limitations set forth above. Requests to exceed the page limitations, which should be made sparingly, should be made by letter filed with the appellate clerk. The letter should include both a compelling reason and the number of pages sought. It is helpful if you include your current statement of issues. If you are briefing a claim based on the state constitution as an independent ground for relief, you may obtain an additional 5 pages (2 pages for a reply brief) simply by writing a letter to the clerk. Note that these additional pages are to be used **only** for the state constitutional argument.

Content

The brief should be as concise and as readable as possible. Use plain English in your brief. The appellant and the appellee should be referred to as either the "plaintiff" or the "defendant," as appropriate, or by name. P.B. § 67-1. The appellant must describe what happened in the trial court and why the judgment should be reversed. The appellee should try to persuade the reviewing court either that the trial court did nothing wrong or that any errors that might have occurred do not merit reversing the judgment, or both.

Electronic Briefing Requirements

Counsel in cases before the Supreme and Appellate courts are required to submit electronic versions of their briefs and appendices prior to the filing of paper briefs and appendices. A copy of the electronic confirmation receipt indicating that the brief and appendix were submitted electronically must be filed with the original paper brief and appendix.

The Appellant’s Brief

The appellant's brief must contain a statement of the issues involved in the appeal, a table of authorities, a statement of the nature of the proceedings and the facts of the case, and an argument section. P.B. § 67-4 (a) through (d). The text of pertinent portions of any constitutional provisions, statutes, ordinances or regulations on which the appellant relies must be included either in the brief or in an appendix. P.B. § 67-4 (f). Also include any rules of court that are at issue. The appellant's brief should be organized in the following order:

1. **Table of Contents.** The table of contents should outline the various sections of the brief (including the major headings from the argument section), along with a page number for each section or heading.

2. **Statement of Issues.** The statement of issues must be included in the appellant's brief. P.B. § 67-4 (a). The issues stated must be concise and must be set forth in separately numbered paragraphs, without detail or discussion. The statement should include references to the pages of the brief where each issue is discussed. P.B. § 67-4 (a). The statement of issues should not exceed 1 page and should be on a page by itself. P.B. § 67-1. The statement of issues will be deemed to replace and supersede the appellant's preliminary statement of issues. P.B. § 67-4 (a).

3. **Table of Authorities.** The table of authorities should include all authorities cited in the brief, as well as the page numbers of the brief where those citations appear. P.B. § 67-4 (b). The rules provide for different citation protocols for judicial decisions, depending on whether the citation to the decision is located in the brief or in the table of authorities. P.B. § 67-11.

4. **Statement Regarding Land Use Regulations.** In zoning and wetland appeals filed pursuant to P.B. § 81-4, you must include a statement identifying the version of the land use regulations filed with the office of the appellate clerk. P.B. § 67-4 (g).

5. **Statement of Proceedings and Facts.** The rules provide that the statement of proceedings and statement of facts should have some "bearing on the issues raised." P.B. § 67-4 (c). For example, it is not necessary to set forth every procedural event or every piece of evidence presented at trial, if the issue on appeal is whether the trial court should have stricken the complaint because it failed to state a cause of action. On the other hand, if the issue on appeal is whether the verdict was contrary to the evidence, then the statement of facts would necessarily require a detailed description of the evidence presented at trial. The statement of facts should be in narrative form, should not be "unnecessarily detailed or voluminous," and should include citations to the transcript page(s) or documents upon which you rely. P.B. § 67-4 (c).

6. **Argument.** The argument section should be divided into appropriate sections (with headings), corresponding to the issues and subissues presented in the appeal. P.B. § 67-4 (d).

   At or near the beginning of the argument for each issue, you must include a separate, brief statement of the standard of review that you believe the reviewing court should apply. P.B. § 67-4 (d). The statement of the standard of review is an opportunity to tell the judges hearing the appeal how you believe they should review the actions of the trial court. For example, if the trial court decided an issue as a matter of law (i.e., construed a statute or granted summary judgment), such decisions are generally reviewed anew on appeal ("de novo" or "plenary" standard of review). On the other hand, issues related to the management of a trial (i.e., scheduling, evidentiary rulings, etc.) are generally reviewed on appeal only to the

extent necessary to determine whether the trial court abused the wide discretion allocated to it in such matters ("abuse of discretion" standard of review). Factual findings made by the trial court are generally reviewed to determine whether there is evidence in the record to support those findings ("clearly erroneous" standard of review). Be aware that these three examples do not purport to cover the field of "standards of review." It is very important that you understand the nature of the review to which you are entitled on appeal and that you inform the court what you believe that standard should be.

The appellant must also demonstrate to the reviewing court that the issues presented on appeal were properly raised in the trial court. Depending on the issue raised on the appeal, the appellant is required to include certain pertinent information in either the brief or the appendix. P.B. § 67-4 (d) (1) through (5). If the appellant does not comply with these requirements, the court may refuse to review the issues raised on appeal.

7. **Conclusion and Statement of Relief Requested.** A short conclusion should be included in the appellant's brief, identifying exactly what action you believe should be taken in the event the court resolves the appeal in your favor, i.e., a new trial or a directed judgment. P.B. § 67-4 (e).

8. **Signature and Certificate of Service.** The brief must be signed by counsel or self-represented party of record. It should include the signer's telephone number, fax number, mailing address and, if applicable, the signer's juris number. P.B. § 62-6. In your certificate of service, include the names, addresses, telephone and fax numbers of all counsel and self-represented parties served. P.B. § 62-7.

9. **Certification Requirements for Electronically Submitted Briefs.** Counsel must certify that electronically submitted briefs and appendices: (1) have been delivered electronically to the last known e-mail address of each counsel of record for whom an e-mail address has been provided; and (2) have been redacted or do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law.

10. **Certification Requirements for the Original Brief and Copies of Briefs**. The original and all copies of the brief filed must be accompanied by: (1) certification that a copy of the brief and appendix has been sent to each counsel or self-represented party of record and to any trial judge who rendered a decision that is the subject matter of the appeal, in compliance with P.B. § 62-7; (2) certification by counsel that the brief and appendix being filed with the appellate clerk are true copies of the brief and appendix that were submitted electronically pursuant to P.B. § 67-2 (g); (3) certification that the brief and appendix have been redacted or do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law; and (4) certification that the brief complies with all provisions of P.B. § 67-2.

11. **Electronic Confirmation Receipt**. A copy of the electronic confirmation receipt

indicating that the brief and appendix were submitted electronically must be filed with the original brief.

The Appellant's Appendix

The appellant must file an appendix with the appellant's brief. Extensive requirements are stated in P.B. § 67-8. The appendix is to be divided into two parts. Part one is mandatory and must include: a table of contents; the docket sheets, a case detail or court action entries in the proceedings below; relevant motions, findings and opinions of the court below; the judgment file; the endorsed appeal form; the docketing statement; any relevant appellate motions or orders completing or perfecting the record; and other documents listed in P.B. § 67-8 (b). A list of suggested documents for inclusion in part one is provided in the appendix to this handbook.

Part two may include other portions of the record that the appellant deems necessary for the presentation of the appeal. It may include excerpts of lengthy exhibits or quotations from transcripts, or items to comply with other sections of the Practice Book which require inclusion of materials in the appendix. Opinions cited by a party that are not officially published must be included in part two of the appendix. P.B. § 67-8 (b) (2). The entire trial court file will be available to the Supreme Court and the Appellate Court.

The Appellee’s Brief

In general, the appellee's brief mirrors that of the appellant as to content and organization. The appellee's brief must respond to the points made and the issues raised in the appellant's brief. The rules allow the appellee to dispense with certain items that are required in the appellant's brief as appropriate. For example, the appellee's counter statement of issues need only address those issues raised by the appellant with which the appellee disagrees, along with any issues properly raised by the appellee under P.B. § 63-4 (i.e., alternative grounds on which the judgment may be affirmed or adverse rulings that should be considered if a new trial is ordered). P.B. § 67-5 (a).

Similarly, the appellee is not required to submit a statement of the nature of proceedings and is required to include a counter statement only as to those facts as to which the appellee disagrees. P.B. § 67-5 (c). The counter statement of facts must be supported with references to the transcript or relevant documents. Any facts on which the appellee intends to rely must be set forth in either the brief or appendix of the appellant, or in the brief or appendix of the appellee. P.B. § 67-5 (c). This is especially important to remember where, as the appellee, you intend to present to the court any of the issues listed in P.B. § 63-4 (for example, alternative grounds for affirmance).

To the extent that you disagree with the appellant's interpretation of rulings made by the trial court, voice your disagreement in the argument section of the appellee's brief. P.B. § 67-5 (d). The appellee's brief must also include a brief statement of the standard of review that the appellee believes should be applied by the court. P.B. § 67-5 (d). If you agree with the appellant's statement of the standard of review, you may so indicate. The appellee's argument section should also address any claims raised under P.B. § 63-4.

When the appellee is also the cross appellant, the issues on the cross appeal should be briefed by the cross appellant in accordance with the rules governing the appellant's brief. P.B. § 67-5 (j).

The appellee must comply with the same certification requirements as the appellant.

The Appellee's Appendix

The appellee's appendix should not include items already included in the appellant's appendix. If the appellee determines that necessary items were not included in part one of the appellant's appendix, the appellee shall include those items. The appellee shall include copies of opinions that are not officially published and may include any portions of the proceedings below that the appellee deems necessary for the proper presentation of the appeal. P.B. § 67-8 (c).

The Reply Brief

Although the filing of a reply brief by the appellant is not required by the rules, if the appellee has raised any issues pursuant to P.B. § 63-4 (a) (1), a reply brief is the only way for the appellant to respond in writing to such issues. Do not raise new issues for the first time in the reply brief. Issues raised in this manner may be ignored by the court.

Format of Appendices

When possible, parts one and two should be bound together, and may be bound together with the brief unless the integrity of the binding is affected or either part exceeds 150 pages, in which case the appendices should be separately bound. P.B. § 67-2 (b). The appendix should be paginated separately from the brief. The appendix should contain an index of the names of witnesses whose testimony is included and the page on which it occurred. You should review P.B. § 67-2 (c) through (j) for other requirements, such as covers of appendices, number of copies to be filed, and the need for electronic versions to be filed by counsel in cases in the Supreme and Appellate Courts.

BRIEFS IN BRIEF (P.B. § 67-1 et seq.)

General Requirements

FONT (text and footnotes)	arial or univers, at least 12 point
MARGINS	1" top and bottom, 1.25" left, .5" right
PAGE NUMBERS	center bottom
BINDING	3 staples on left or otherwise firmly bound
HOW MANY TO FILE	AC: original plus 10 copies SC: original plus 15 copies
SPACING	• fully double-spaced text • single-spaced footnotes and block quotes
FRONT COVER	arial or univers, at least 12 point: • court (Supreme Court or Appellate Court) • docket number (SC _____ or AC _____) • case name (as found in trial court's judgment file) • whose brief (e.g., brief of the defendant-appellant) • name, address, telephone number, fax number and email address of counsel of record (including those of counsel who will argue the appeal)
BACK COVER	optional, but white, if used
APPENDIX	Parts one and two should be bound together when possible, and may be bound together with the brief unless the integrity of the binding is affected or either part exceeds 150 pages, in which case they should be separately bound. May be copied on both sides of the page.
CERTIFICATIONS	• certify service to trial judge, counsel and self-represented parties • certification requirements found in P.B. § 67-2. • electronic confirmation receipt required with original brief
TRANSCRIPT	due at time of filing brief: 1 unmarked, nonreturnable copy, with form (JD-CL-62) indicating filing party, number of volumes and dates of hearings transcribed
ZONING REGULATIONS	1 complete copy of local land use regulations certified by local zoning official

Specific Requirements for Parties' Briefs

BRIEF	NO. OF PAGES	COVER COLOR	WHEN DUE
APPELLANT	35	blue	45 days after transcript delivered or, if no transcript, 45 days after appeal filed in trial court
APPELLEE	35	pink	30 days after appellant's brief filed
APPELLEE/CROSS APPELLANT	50	pink	30 days after appellant's brief filed
REPLY	15	white	20 days after appellee's brief filed
CROSS APPELLEE WITH APPELLANT REPLY	40	white	30 days after appellee's brief filed
CROSS APPELLANT REPLY	15	white	20 days after cross appellee's brief filed
AMICUS	set by court	green	set by court

SECTION 8

ASSIGNMENT OF CASES

Cases are listed on the printed Docket when all briefs and appendices, including reply briefs, have been filed, or the time for filing reply briefs has expired. See P.B. §§ 69-1 and 69-2. The cases listed on the Docket are considered ready for assignment during the upcoming court term. The Docket, which also contains the anticipated assignment dates, is mailed by the office of the appellate clerk to all counsel and self-represented parties of record, and it is posted on the Judicial Branch website.

Assignment of cases is ordinarily made in order of readiness, with the oldest cases being assigned first. All counsel and self-represented parties of record are required to inform the office of the appellate clerk**,** by letter or fax, of any requests for variation from this order, including requests to argue cases together, requests to waive argument or of any scheduling conflicts, including the date and reasons therefor. See P.B. § 69-3. Such requests must include certification to all counsel and to each of counsel's clients who are parties to the appeal, and must be received by the office of the appellate clerk by the date shown on the Docket. **In making such a request, counsel and self-represented parties of record should be aware that assignments in the Supreme Court and the Appellate Court take precedence over all other Judicial Branch assignments.**

The Assignment for Days, which is a printed calendar that shows the dates on which cases are assigned for argument during a particular term of the court, is mailed to counsel and self-represented parties of record in assigned cases. P.B. § 69-3. It is also posted on the Judicial Branch website. The office of the appellate clerk must be notified by the appellant promptly of any case that has settled or is being withdrawn so that a standby case can be called up. P.B. § 69-2. Standby cases, which are also listed on the Assignment for Days, may be called for argument on short notice. If not called during the month they are assigned on standby status, they are usually assigned for argument the following term.

SECTION 9

ORAL ARGUMENT

In the Supreme Court, both the appellant and the appellee are ordinarily allowed no more than 30 minutes of argument time respectively. P.B. § 70-4. The practice of the Appellate Court is to allow both the appellant and the appellee no more than 20 minutes of argument time respectively. The appellant may reserve rebuttal time out of the allotted time. The appellant opens and generally closes the argument. P.B. § 70-3.

Only one person may argue for any one party unless special permission is obtained from the presiding jurist prior to the date of argument. P.B. § 70-4. Multiple counsel representing different parties on the same side of a case may apportion the argument time allotted to that side between themselves without special permission of the court. It is a courtesy to the court, however, to send a letter to the appellate clerk prior to oral argument indicating your intent to apportion the argument time and how you wish to do so. A party must have filed a brief or joined in the brief of another party in order to argue at all. An amicus curiae may not argue unless specifically granted permission to do so. P.B. § 67-7. Such permission is rarely granted.

Sometimes there is a change in counsel or designation of arguing counsel before the scheduled argument date. Be aware that any change, substitution or withdrawal of counsel after the filing of the reply brief requires permission of the court. P.B. § 62-8.

In cases where parties are self-represented and incarcerated, oral argument may, in the discretion of the court, be conducted by videoconference. P.B. § 70-1 (c).

The Appellate Court may determine that certain cases are appropriate for disposition without oral argument. P.B. § 70-1. If a case is chosen for such disposition, counsel and self-represented parties of record are notified of this determination by letter. If either party has an objection to waiving oral argument, that party must respond to the letter within 7 days of issuance of the court's notice. The court will either assign the case for oral argument or assign the case for disposition without oral argument, as it deems appropriate.

Counsel or self-represented parties may, at any time, request the court's permission to submit a case for consideration on the record and the briefs only.

Suggestions for Successful Oral Argument

Many books and articles have been written about the techniques for a successful oral argument and all of that good advice cannot be repeated here. The following is a short list of suggestions to keep in mind as you plan your oral argument.

1. **Oral argument serves a very different function from that of the written brief**. The brief is a detailed and formal explanation of your position that the judges study at length before and after oral argument. Oral argument, by contrast, is a short and often intense opportunity that is provided so that you can answer the judges'

questions about the case and your position. Oral argument, therefore, should not be a speech or a spoken version of the brief. Instead, use the oral argument to focus the court on the key strengths of your case and weaknesses of your opponent's position and to answer the judges' questions.

2. **Effective oral argument requires detailed preparation and a mastery of the facts and law relevant to the case and position.** The judges assigned to hear the case will have read the parties' briefs before argument and will be familiar with the facts of the case, the proceedings below and the key cases cited. So should you. The judges expect you to know what occurred below even if you were not the lawyer who tried the case. Therefore, answers such as, "I was not the lawyer who tried the case," are not favored. The judges expect you to be able to answer their questions.

3. **Do not read your argument from a prepared text or notebook**. Bring notes with you to the lectern but resist the temptation to read from them. Instead, maintain eye contact with the judges and engage them in a discussion of your position and the court's questions. A meaningful discussion of that kind will be possible only if you are thoroughly familiar with the facts of your case and the decisions cited in the parties' briefs. If you intend to rely at argument on a decision that was not cited in the briefs, advise the court and your opponent of the case in advance of argument pursuant to P.B. § 67-10.

4. **Do not begin your oral argument with a recitation of the facts or proceedings below.** Assume that the judges will be familiar with the facts and procedural history of your case. You will probably have only a brief opportunity to speak at the outset of the argument before the judges begin to ask questions. Instead of wasting that opportunity on matters that the judges already know about or that are not relevant to resolution of your case, use that brief time to get immediately to the crux of your case.

5. **Expect and welcome questions from the court.** The purpose of oral argument is to answer the judges' questions. Experienced advocates understand that questions are not interruptions but are opportunities to clarify positions, to clear up confusion and to persuade the judges that you should prevail. The best way to give a good answer is to anticipate the questions in advance. Careful preparation, therefore, requires you to consider the questions that the judges may have about your case and to develop concise answers to anticipated questions. Many lawyers consider it useful to practice answers to anticipated questions before the argument.

6. **Listen carefully to the questions asked and think before answering a question**. Make sure you understand what the judge is asking **before** responding. Long answers to questions that were never asked are not helpful. Respond directly and immediately to the question with a "Yes," "No," or "I do not know," and then explain your answer. As a practical matter, you will probably be limited to a one or two sentence explanation. If you quote from a portion of the record, tell the judges where they can find it.

7. **Never say, “I’ll get to that later.”** The judge who asked the question wants to explore that issue now, not when you get around to the page of your outline where you listed that issue.

8. **Be courteous and respectful to the court and opposing counsel.** Do not argue with a judge or pose questions to the court. It is their job to ask the questions, not yours, although you should clarify questions if needed. Judges also will not appreciate it if you denigrate, or are discourteous to, your opponent.

9. **Do not continue your argument or use your rebuttal time if you no longer have anything meaningful to say.** If the judges have no further questions, consider whether it is useful to continue your argument or to waive the balance of your allotted time.

10. **Above all, be honest and candid with the court.** If you do not know the answer to a question, say so. Also, if there is a decision or fact that is harmful to your case, say so as well, but explain why you believe the court should not follow it. You do not help yourself by evasive or untruthful answers. Not only do you have an ethical obligation of candor to the court, but the judges will surely discover your lack of candor.

SECTION 10

POSTDECISION MOTIONS AND PETITIONS

After the court issues an opinion in a case, the reporter of judicial decisions sends a copy of the opinion and the original rescript to the clerk of the trial court. Notice of the decision will be deemed to have been given, for all purposes, on the official release date that appears in the court's opinion, and not on the date on which the court's opinion is posted on the Judicial Branch website. See P.B. § 71-4. There are a number of motions and petitions that may be filed after a decision is issued by either the Supreme Court or the Appellate Court.

Motion for Reconsideration or Motion for Reconsideration En Banc

A motion for reconsideration by either the panel that decided the case or by the Supreme Court or the Appellate Court en banc (or both) must be filed within 10 days from the official release date of the decision being challenged. The motion must be accompanied by a receipt showing that the fee for filing the motion has been paid to any trial court clerk's office in the state or that the fee has been waived. The motion will not be considered properly filed unless the fee has been paid. See P.B. § 71-5. The motion must comply with the general motion requirements listed in P.B. §§ 66-2 and 66-3 and is limited to 10 pages. Motions for reconsideration should briefly state with specificity the grounds for reconsideration. They are rarely granted.

Petition for Certification

A party who is aggrieved by a final determination of an appeal by the Appellate Court may seek review of that decision in the Supreme Court by filing a petition for certification in the Supreme Court. C.G.S. § 51-197f; P.B. § 84-1. Such review is entirely discretionary. Petitions for certification must be filed within 20 days of the date on which the Appellate Court decision is officially released, or within 20 days of the order on any timely filed motion for reconsideration filed with the Appellate Court. P.B. § 84-4 (a). Cross petitions for certification may be filed by any other aggrieved party within 10 days of the filing of the original petition. P.B. § 84-4 (b).

The original and 1 copy of the petition for certification must be filed with the clerk of any trial court in the state, together with the fee specified in C.G.S. § 52-259. The clerk will then endorse the petition with the date and time of filing and return it to the petitioner, who must file it with the office of the appellate clerk with 15 copies. P.B. § 84-4 (a). No filing fee is required in workers' compensation cases, in cases where a waiver of fees, costs and expenses was previously granted, or where a statutory provision exempts the petitioner from paying the fee. Note that, in cases where no fee is required, the petitioner may file the petition and 15 copies directly with the office of the appellate clerk.

Although the 10 page limit (exclusive of the appendix) applies, petitions for certification and their oppositions do not require compliance with the general motion requirements of P.B. § 66-2.

The petition must include:

- a statement of the question(s) presented for review;
- a statement of the basis for the extraordinary relief of certification; P.B. § 84-5; see P.B. § 84-2;
- a summary of the case;
- a concise argument;
- an appendix, that may be double-sided, containing specified items; P.B. § 84-5; and
- a certificate indicating compliance with all the provisions of P.B. § 84-5

The appendix to the petition may also include other items that the petitioner believes would be useful to the Supreme Court. Within 10 days of the filing of a petition for certification, any party may file an original and 15 copies of a statement in opposition. The opposition must also include a certificate indicating compliance with all the provisions of P.B. § 84-6. There is no provision for any reply. If the Supreme Court grants the petition for certification, the office of the appellate clerk will enter the case upon the Supreme Court's docket. The successful petitioner (now called the appellant) must pay a fee within 20 days of the notice of certification unless no fee is required or the fee has been waived. P.B. § 84-9. The appellant must certify to all other counsel and self-represented parties of record and to the clerk of the trial court from which the cause arose that the fees have been paid or no fees were required. The appellant must file the docketing statement required by P.B. § 63-4 (a) (3) and, unless the time is otherwise extended, must file the appellant's brief within 45 days of notice of certification. Briefing thereafter is in accordance with the requirements of P.B. § 67-3. See P.B. § 84-9.

Petition for Certiorari and Motion for Stay

Parties aggrieved by a final judgment of the Supreme Court or by a final judgment of the Appellate Court, where certification by the Supreme Court has been denied, may seek review of an issue of federal law by filing a petition for certiorari in the United States Supreme Court. 28 U.S.C. § 1257. Aggrieved parties may also seek review in the United States Supreme Court of an issue of federal law where certification has been denied by the Appellate Court. Please consult the United States Supreme Court's rules for the procedures governing petitions for certiorari. If a party wishes to obtain a stay of execution pending decision by the United States Supreme Court, that party may seek such a stay by filing a motion for a stay within 20 days of the appellate judgment. P.B. § 71-7. The filing of the motion will operate as a stay pending a decision on the motion for stay. If the case has gone to judgment in the state Supreme Court, the motion for stay should be filed with that court. If the state Supreme Court has denied a petition for certification from the Appellate Court, the motion for stay should be filed with the Appellate Court.

Bill of Costs

A bill of costs must be filed with the office of the appellate clerk within 30 days after the official release of the appellate decision or denial of a motion for reconsideration or petition for certification, whichever is last. P.B. § 71-2. Any party may seek review of the clerk's taxation of costs by filing a motion to reconsider costs. P.B. § 71-3.

APPENDIX

Suggested Contents for Preparation of Appendix Part One (P.B. § 67-8)

The contents of Appendix Part One shall contain only those pleadings which are necessary for the proper presentation of the issues on appeal. The lists of pleadings below, based on case type, are suggestions, formulated by appellate case managers to assist in preparation of Part One of the Appendix pursuant to the Rules of Appellate Procedure effective July 1, 2013. Documents included in the appendices shall be redacted to insure that no information that is protected by rule, statute, court order or case law is disclosed. See P.B. § 67-2. (Applicable to appeals filed on or after July 1, 2013)

PLEASE NOTE: a table of contents is required to be filed as part of Appendix Part One

Civil Matters (nonjury)

1. Case detail
2. Operative Complaint
3. Answer
4. Special Defenses
5. Counterclaim
6. Reply
7. Pertinent motion(s) for summary judgment with affidavit(s), motion to strike, motion in limine, motion for default with affidavit(s) but without memorandum of law
8. Opposition to motion(s) without memorandum of law
9. Trial court's decision(s)
10. Motion for reconsideration and opposition thereto
11. Judgment file
12. Appeal
13. Docketing statement
14. Relevant post appeal motions and orders dismissing portions of the appeal or motions granting articulations or rectifications.

Civil Matters (jury)

1. Case detail
2. Operative Complaint,
3. Answer
4. Pertinent motion(s) motion for summary judgment with affidavit(s), motion to strike, motion in limine, motion for default with affidavit(s) but without memorandum of law
5. Opposition(s) to motion(s) but without memorandum of law
6. Trial court's decision on the motion(s)
7. Motion for a directed verdict, motion for judgment notwithstanding the verdict, motion for a new trial

8. Jury verdict and interrogatories
9. Motion to set aside the verdict, motion for new trial
10. Opposition(s) to motion(s)
11. Trial court's decision
12. Judgment file
13. Appeal
14. Docketing statement
15. Relevant postappeal motions and orders dismissing portions of the appeal or motions granting articulations or rectifications.
16. See P.B. § 67-4 re Requests to Charge

Civil Foreclosure

1. Case detail
2. Operative Complaint
3. Answer
4. Motion for default
5. Motion for summary judgment
6. Motion for judgment of strict foreclosure or motion for judgment of foreclosure by sale with affidavit of debt
7. Motion to open judgment of strict foreclosure or foreclosure by sale
8. Trial court's decision
9. Motion to reopen
10. Appeal
11. Docketing statement
12. Relevant post appeal motions and orders dismissing portions of the appeal or motions granting articulations or rectifications.

Criminal

1. Original information and court action entries
2. Substitute information(s)
3. Long form information (last long form information unless earlier long form informations are at issue)
4. Bill of Particulars
5. Pertinent motion(s) such as motions to suppress or in limine
6. Motion to dismiss
7. Motion for new trial
8. Motion to reargue
9. Verdict form(s)
10. Memorandum of decision or signed transcript of oral decision
11. Judgment file
12. Appeal
13. Docketing statement
14. Relevant postappeal motions and orders dismissing portions of the appeal or motions granting articulations or rectifications.
15. See P.B. § 67-4 re Requests to Charge

Habeas

1. Case detail
2. Petition or last amended petition
3. Return
4. Pertinent motion(s)
5. Opposition to motion(s)
6. Court's decision oral or written
7. Petition for certification to appeal and order
8. Judgment file
9. Appeal
10. Docketing statement
11. Relevant postappeal motions and orders dismissing portions of the appeal or motions granting articulations or rectifications.

Family

1. Case detail
2. Complaint
3. Answer/cross claim
4. Reply
5. Pendente lite order(s), if relevant
6. Financial affidavits, if relevant and unsealed with unsealing orders
7. Memorandum of decision
8. Judgment file
9. Appeal
10. Docketing statement
11. Relevant postappeal motions and orders dismissing portions of the appeal or motions granting articulations or rectifications.

Family Postjudgment

1. Case detail
2. Judgment file
3. Motion(s) for modification, contempt, open
4. Opposition(s) to motion(s)
5. Trial court's decision(s)
6. Motion for reconsideration and opposition thereto
7. Appeal
8. Docketing statement
9. Relevant post appeal motions and orders dismissing portions of the appeal or motions granting articulations or rectifications.

Workers' Compensation Review Board

1. Certification of the record
2. Finding and award
3. Motion to correct

4. Objection to motion to correct
5. Petition for review
6. Reasons for appeal
7. Appeal from finding
8. Opinion
9. Appeal
10. Docketing statement
11. Relevant postappeal motions and orders dismissing portions of the appeal or motions granting articulations or rectifications.

Juvenile

1. Case Information(s) juvenile matters
2. Order of temporary custody
3. Neglect petition
4. Neglect judgment file
5. Specific steps
6. Motion for review of permanency plan
7. Petition for termination of parental rights
8. Memorandum of decision
9. Termination of parental rights judgment file
10. Appeal
11. Docketing statement
12. Relevant postappeal motions and orders dismissing portions of the appeal or motions granting articulations or rectifications.

Administrative Appeals

1. See P.B. § 67-8A

Supreme Court Appeals upon Grant of Certification

2. See P.B. § 67-8 (b) (1)

RESOURCES ON CONNECTICUT APPELLATE PROCEDURE

Official Connecticut Practice Book: The Commission on Official Legal Publications (2014)[1]

Connecticut Rules of Appellate Procedure, Horton & Bartschi: West Publishing (2014)[2]

Connecticut Appellate Practice and Procedure, Tait & Prescott: Connecticut Law Tribune (Cum. Supp. 2003)[3]

[1] The Official Practice Book, which is republished annually, may also be accessed at www.jud.ct.gov, the website of the Connecticut Judicial Branch. It should be noted that when new rules of practice are adopted or existing rules are amended, an Official Commentary, which often explains the reason for the rule change, appears after the rule in the Official Practice Book. The Official Commentary appears only in the edition of the Official Practice Book corresponding to the year in which the new rule or amendment first was published.

[2] This unofficial, annotated volume is updated and reissued annually, and it includes prior years' Official Commentaries.

[3] This volume is updated periodically with a cumulative supplement.